

BEFORE THE NEBRASKA PROFESSIONAL PRACTICES COMMISSION
STATE OF NEBRASKA

Douglas D. Christensen)
Commissioner of Education)
301 Centennial Mall South - 6th Floor)
P.O. Box 94933)
Lincoln, NE 68509-4933)

Petitioner,)

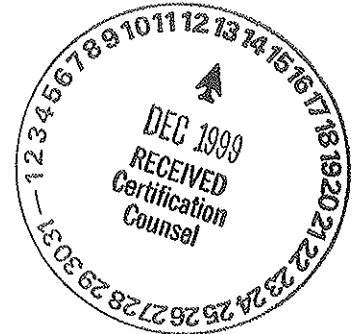
vs.)

Richard Brommer)
501 McClean)
Filley, NE 68357)

Respondent.)

N.P.P.C. Case No. 99-09
Case No. 98019

FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND RECOMMENDATION OF
THE COMMISSION



I. STATEMENT OF THE CASE

This case commenced with the filing of a Petition on August 19, 1999, by Douglas D. Christensen, Commissioner of Education, Department of Education, State of Nebraska, hereinafter referred to as "Petitioner." The Petition was filed against Richard Brommer, hereinafter referred to as "Respondent." The Petitioner alleges certain acts of conduct by the Respondent in violation of Title 92, Nebraska Administrative Code, Chapter 27, Sections 004.02D, 004.02E, 004.02H, 004.02B, 004.04F, 004.05C, 004.06A, 004.06D, 005.02C(2), all having an effective date of December 25, 1989, and Neb. Rev. Stat. Section 79-866(2) (Reissue 1996).

On August 19, 1999, the Petitioner gave Respondent notice of his right to submit an answer within twenty-one (21) days. Shortly after the above date, the Petition and Notice were served upon the Respondent by certified mail, return receipt requested. On September 2, 1999, an Answer was filed with the Professional Practices Commission (hereinafter referred to as the "Commission") by Scott J. Norby, Respondent's attorney.

On or about September 3, 1999, Kathi Vontz, the Clerk of the Professional Practices Commission, sent a notice of hearing to all parties advising that a public hearing on the Petition and Answer would be held on the 20th day of November, 1999, at 9:00 a.m., in the in the State Board Hearing Room, Sixth Floor, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. The Notice further advised that the hearing would be held before a

designated hearing committee of the Commission with Samuel Van Pelt serving as legal counsel to advise the Chair in the performance of her duties.

At the above time and place, the Petition and Answer came on for hearing before a Hearing Committee of the Commission consisting of Commissioners Vickie Anderson, Rose Mary Datus, John Garske, Kurt Harrison, Mimi Heintzman, Royce Holtgrewe, Joe Johar, Joe Reinert, Linda Salazar, Tim Shafer, and Leann Widhalm. Royce Holtgrewe disqualified himself from participation in this proceeding. Leann Widhalm served as Chairperson of the hearing panel. The proceedings were reported by Carolyn Freeman of General Reporting Services, Lincoln, Nebraska. The Petitioner was present by Brian L. Halstead, his attorney. The Respondent appeared with his attorney, Scott J. Norby. Pursuant to stipulation, the testimony of witnesses and exhibits from a trial in the District Court of Gage County, Nebraska, in Case No. CR98-47, entitled State v. Richard Brommer, were admitted and received into evidence in this proceeding. Certain other exhibits were also received into evidence. Counsel for both parties submitted memorandum briefs and written arguments in lieu of closing oral arguments. The Commission thereupon adjourned and deliberated. Accordingly, it now makes the following Findings of Fact, Conclusions of Law, and Order.

II. FINDINGS OF FACT

1. The Petitioner is the Commissioner of Education for the State of Nebraska. The Respondent holds a lifetime Nebraska public schools certificate, number . -3814, Type 1, Rank A, Level 7, endorsed as Superintendent (K-12) and Mathematics (7-12).
2. At all times relevant herein, the Respondent was employed by the Filley Consolidated School District, which became the Daniel Freeman Public School District, until his employment terminated on May 13, 1998.
3. During the 1996-1997 and 1997-1998 school years, the Respondent received compensation in excess of the amount specified in his contract with the Filley School Board without formal approval by such board. This was in the form of certain tools and equipment that he received which were paid for by the Filley School Board.
4. During the 1996-1997 and 1997-1998 school years, the Respondent misrepresented information to the Nebraska School Activities Association regarding the head boys' basketball coach at Filley High School and, in particular, the Respondent's role and that of Dennis Remmers.

III. DISCUSSION

It is the opinion of all Commissioners participating in this hearing that based upon the above Findings of Fact, the Petitioner proved by a preponderance of the evidence that the Respondent violated Title 92, Nebraska Administrative Code, Chapter 27, Sections 004.02D and 004.02H. It is the opinion of eight of the Commissioners that the Respondent violated Title 92, Nebraska Administrative Code, Chapter 27, Section 004.06D. It is the unanimous opinion of all

participating that the Petitioner failed to prove by a preponderance of the evidence that the Respondent violated Title 92, Nebraska Administrative Code, Chapter 27, Sections 004.02E, 004.04B, 004.04F, 004.05C, 004.06A, 004.06B, and 005.02C(2). It is the opinion of seven of the Commissioners that based upon the above violations, the Respondent should be issued a public reprimand. It is the opinion of three Commissioners that his certificate should be suspended for a limited period of time.

IV. CONCLUSIONS OF LAW

1. The Commission has jurisdiction in this case and all proceedings have been in accordance with applicable Constitutional, Statutory, and Regulatory Requirements.

2. The Petitioner has proven by a preponderance of the evidence that the Respondent has violated Title 92, Nebraska Administrative Code, Chapter 27, Sections 004.02D, 004.02H, and 004.06D, all having an effective date of December 25, 1989.

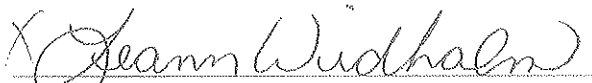
3. The Petitioner has failed to prove by a preponderance of the evidence that the Respondent has violated any of the other provisions of Title 92, Nebraska Administrative Code, Chapter 27 alleged in the Petition, or that the Respondent has committed an immoral act or committed a felony.

4. The Petitioner has proved by a preponderance of the evidence that considering the Respondent's conduct, he should be issued a formal reprimand for violating Title 92, Nebraska Administrative Code, Chapter 27, Sections 004.02D, 004.02H, and 004.06D, all having an effective date of December 25, 1989.

V. RECOMMENDATION

Therefore, the Commission respectfully orders that the Respondent, Richard Brommer be, and he is formally reprimanded for violating Title 92, Nebraska Administrative Code, Chapter 27, Sections 004.02D, 004.02H, and 004.06D, all having an effective date of December 25, 1989.

Dated this 9th day of December, 1999.



Leann Widhalm, Chairperson, Hearing Panel
Nebraska Professional Practices Commission

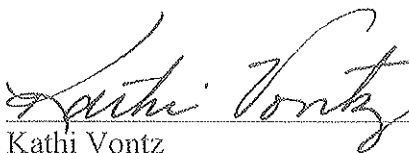
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Findings of Fact, Conclusions of Law, and Order of the Commission for Case No. 99-09 has been served upon Respondent, Richard Brommer, and Scott J. Norby, attorney for the Respondent, by U.S. mail, postage prepaid, and hand delivered to Brian L. Halstead on this 13th day of Dec., 1999, at the following addresses.

Richard Brommer
Respondent
501 McClean
Filley, NE 68357

Brian L. Halstead
Attorney for Petitioner
301 Centennial Mall South
Lincoln, NE 68509

Scott J. Norby
McGuire & Norby
605 South 14th Street, Suite 100
Lincoln, NE 68508



Kathi Vontz
Clerk of the Commission